

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Oscar Cruz, Mynor Polanco, Carlos Vasquez, and German
DeJesus Portillo

Plaintiff(s),

-against-

Demarco Bros Landscaping & Tree Service Corp d/b/a
Frank Giovinazzo Tree Service d/b/a Frank Giovinazzo
North Shore Tree Service d/b/a North Shore Tree Service,
and Theodore Passelis,

Defendant(s).

**Case No. 2:23-cv-9200
(GRB)(ARL)**

**PLAINTIFFS' FIRST
SET OF
INTERROGATORIES
TO THE DEFENDANTS**

INTRODUCTION

Plaintiff Oscar Cruz ("Propounding Party") hereby requests that Defendant Demarco Bros Landscaping & Tree Service Corp ("Responding Party") respond to the following Interrogatories:

DEFINITIONS AND INSTRUCTIONS

"The full text of the definitions and rules of construction set forth in paragraphs (c) and (d) [of Local Rule 26.3] is deemed incorporated by reference into [the following] discovery requests." Local Civil Rule 26.3(a).

Relevant Time Period. The relevant time period means the six-year period preceding the filing of the complaint (from December 15, 2017) to the present time. Unless otherwise specified each interrogatory covers the relevant time period.

"Plaintiffs" means Oscar Cruz, Mynor Polanco, Carlos Vasquez, and German DeJesus Portillo.

INTERROGATORIES

INTERROGATORY NO. 1:

For each plaintiff state: (1) the positions held within the company, (2) the dates on which each plaintiff held the position, and (3) the first and last dates of employment, regardless of date.

INTERROGATORY NO. 2:

Identify any documents, including employee handbooks, policies, or procedures, concerning overtime pay, wage statements and hiring notices for employees of Demarco Bros Landscaping & Tree Service Corp. in effect during the relevant time period.

INTERROGATORY NO. 3:

For each Plaintiff state provide the following for each payment of wages made during the relevant time period:

1. The date of the payment
2. The dates of work covered by the payment
3. The employee's regular rate
4. The employee's overtime rate
5. The number of regular hours paid
6. The number of overtime hours paid
7. Gross Pay
8. Deductions from wages
9. Net pay
10. The amount paid in check
11. The amount paid in cash

The requested format is Excel/CSV format (See Exhibit 1)

INTERROGATORY NO. 4:

Identify all documents that reflect the hours worked by Plaintiffs, including the beginning and ending of each workday and the beginning, ending and duration of meal periods, as well as the computation of wages, during the relevant time period.

INTERROGATORY NO. 5:

State the total number of hours worked by each Plaintiff on a daily and weekly basis during each workweek of the relevant time period.

INTERROGATORY NO. 6

State the reason(s) why Oscar Cruz, Mynor Polanco, and Carlos Vasquez are no longer employed by Demarco Bros Landscaping & Tree Service Corp., including the reasons for their termination and/or layoff, if applicable.

INTERROGATORY NO. 7:

Identify any documents that support your stated reasons why Oscar Cruz, Mynor Polanco, and Carlos Vasquez are no longer employed by Demarco Bros Landscaping & Tree Service Corp.

INTERROGATORY NO. 8:

Identify any individuals who were involved in the decision to terminate/lay off Oscar Cruz, Mynor Polanco, and Carlos Vasquez from their employment with Demarco Bros Landscaping & Tree Service Corp, including their names, addresses, and telephone numbers.

INTERROGATORY NO. 9:

State the factual basis for any affirmative defenses that Demarco Bros Landscaping & Tree Service Corp intends to assert in response to the claims made by Plaintiffs regarding the failure to provide accurate wage statements as required by NYLL § 195(3) or the failure to furnish a hiring notice as provided by NYLL 195(1).

INTERROGATORY NO. 10:

State the factual basis for any affirmative defenses that Demarco Bros Landscaping & Tree Service Corp intends to assert in response to the claims made by plaintiffs regarding the failure to pay overtime under the NYLL and the FLSA.

INTERROGATORY NO. 11:

Identify any documents that support the defenses asserted by Demarco Bros Landscaping & Tree Service Corp in response to the claims made by Plaintiffs regarding unpaid overtime violations.

INTERROGATORY NO. 12:

Identify any individuals who have knowledge of the facts and circumstances concerning the claims made by the Plaintiffs regarding their employment and alleged wage violations by Demarco Bros Landscaping & Tree Service Corp during the relevant time period.

INTERROGATORY NO. 13:

Identify any documents, including emails, text messages, or other communications, t the claims made by Plaintiffs for unpaid overtime violations during the relevant time period.

INTERROGATORY NO. 14:

State whether Demarco Bros Landscaping & Tree Service Corp provided a hiring notice to Oscar Cruz, Mynor Polanco, and Carlos Vasquez within 10 days of their hiring as required by NYLL § 195(1).

INTERROGATORY NO. 15:

Identify any documents that reflect the provision of a hiring notice to Oscar Cruz, Mynor Polanco, and Carlos Vasquez within 10 days of their hiring as required by NYLL § 195(1).

INTERROGATORY NO. 16:

State whether Demarco Bros Landscaping & Tree Service Corp provided a wage statement with each payment of wages that complid with NYLL § 195(3).

INTERROGATORY NO. 17:

Identify any documents that reflect the provision of a wage statements to the Plaintiffs as required by NYLL § 195(3).

INTERROGATORY NO. 18:

Identify every tool, product, good, or piece of equipment used by and/or operated by each plaintiff (including for gasoline powered equipment, the gasoline) at any time from January 1, 2020 to the present. For each tool, product, good, fuel or piece of equipment identified, provide the state and/or country of manufacture/production thereof.

INTERROGATORY NO. 19

Identify every document that concerns the state and/or country of manufacture or production of

INTERROGATORY NO 20

State the gross volume of business done or sales made of Demarco Bros Landscaping & Tree Service Corp. for each calendar year from 2020 to the present.

Dated: October 30, 2024

Moser Law Firm PC

By: Steven J. Moser
Steven Moser
133 C New York Avenue
PO Box 710
Huntington, NY 11743
Phone: 516-671-2776
stevenjmoser@gmail.com

TO: All counsel of record (via email)